G. R. S. IX—5]

Previous references

1923.
(Courts)

File No. 235-23
Serial Nos. 1-2

Later references

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two

Part B for May 1924

SUBJECT

Amendments to civil rules of practice Nos 28 and 62A regarding attachment of property paying revenue to court and sale of movable property.

Govt. No. P. 6439 dt 22-5-24 to the High Court

Sanctioned

Ramaswamy Iyengar
28/5/24.

G. R. S. 11) 1923-4

GENERAL AND REVENUE SECRETARIAT.

(Cl5)

NOTES.

File No. 235-23

FILE HEADING.

Corrigenda to Rules of Practice nos: 28 and 64 (Civil Side) re Attachments and Sale of ~~immovable~~ property

From

The Registrar Lahore Court

No. 1363 Dated 9.4.24 Received 12.4.24

Diary No. 4474	Enclos. 2 Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Requests sanction to the enclosed amendments to Civil Rules of practice nos 28 and 64 re attachment of property paying revenue to govt and sale of movable property

NOTES AND ORDERS.

Submd for orders with a draft - may be approved. There is no need for these rules as for not. The other incorporated in the Code of Civil Procedure ~~is~~ the third appears to be ultra vires as stated a refund can always be asked for. There is no question of forfeiture

14/4/24

Lt Secy

Cag 15/4

NOTES—First Sheet.

G. R. S. III-2]

4474

General and Revenue Secretariat.

C5 File No. 235 of 1924

Serial No.

As regards No 1, there is no necessity to have it, since the same stand of the High Court.

No 2 is already incorporated in C.P.C.

No 3 is ultra vires the Bombay Code does not envisage prohibition.

The recommendations therefore be abandoned

Bombay

9050
24.4.24

Issue cag 9.5

NOTE—Contn. sheet.

G. R. S. III-2

4474

B

General and Revenue Secretariat.

Ch. File No. 232 of 1923.

Serial No.	
2	To The Registrar Chief court No. P. 6439 dt 22.5.24. Sanction to proposed amendment to rule 12 of ~~R.P.~~ no. 28 dt 8.3.1880 and rule 3 of R.P. no. 64 dt 14.12. 1885.

B
27/8

NOTE—Contn. sheet.

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IMMEDIATE.

Telgm:
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore....9th April.....1924

R.O.C. No. 1363/23-24/Encl 2

CS 235-231

GEN. & REV. BRCH. Br. 11. APR. 1924 C.D. SECTION

From

A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

To

B. Nagappa, Esq., Bar-at-Law,
Secretary to Government,
Local & Legislative Depts.,
B A N G A L O R E.

Sir,

I am directed to state that the marginally noted Rules of Practice require to be cancelled for reasons noted below.

1. Rule 7 of R.P. 28 dated 8th March 1880, Page 38 Civil Digest.
2. Rule 1 under (C) attachment, Page 37 Civil Digest.
3. R.P. No.64 dated 14th December 1885 (Rule 3, Page 44 Civil Digest).

1. Rule 7 of R.P. 28 dated 8th March 1880.

This rule which was issued more than forty years ago has now become obsolete and as a matter of fact is never observed in any Court. As in the majority of cases where immovable - - property is attached it is only lands paying revenue to Government that are involved it would be impracticable to write to the Revenue authorities in every case and await their reply. More often than not the Amildars will not send timely replies with the result that execution applications will be hung up for considerabl lengths of time. As the claim of Government for arrears of land revenue is paramount irrespective of the transfer of ownership and as both the order of attachment and the proclamation of sale have to be affixed in the Deputy Commissioner's Office as also in the Taluk Cutchery under Rule 16 at page 45 - Civil Digest, it seems unnecessary to make a separate enquiry as to the arrears

of revenue due on the land at the time of attachment. This rule may therefore be expunged.

2. Rule 1-(C) attachment - Page 37 - Civil Digest. This rule was issued prior to the passing of the new Civil Procedure Code Regulation III of 1911. It has been since reproduced as Rule 66 (5), Order XXI of the Civil Procedure Code of 1911 and there is no necessity for its being continued as a Rule of Practice.

3. R.P. No.64 dated 14th December 1885 (Rule 3 - Page 44 - Civil Digest). The first 5 lines ~~up to~~ ending with the word "Judgment-Debtor" may be retained and the rest of the rule ~~has to be~~ omitted. It not only clashes with Rule 21(1) at page 41 Civil Digest but also appears to be ultra vires there being no law by which sale proceeds which have not been claimed should be forfeited to Government (at best it can only lapse subject to refund). It is always opened to the party or to his representatives in interest to put in a claim for refund.

I am therefore to request that the Government may be pleased to sanction the issue of the accompanying corrigenda embodying the alterations now proposed. I am to request that very early orders may be passed in the matter as the Civil Digest is now being revised and it is intended to exclude all obsolete matter in the revised edition.

I have the honour to be,

S i r,

Your most obedient servant,

Theeruvadoparambil.
9/4/24

REGISTRAR.

TAV.

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SUBJECT.....

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Diary No. of letter replied to... 4474

Section Cl.

File No. 35 23

Serial No. 2

General and Revenue Secretariat

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Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 22/5/24

Signed by.....

Read—

Letter no: C 1363/23-4 dt 9.4.1924 from the Regr. Chief Court, stating that rules 1 and 7 of R.P. no 28 dt 8.3.1880 ~~are no~~ relating ~~longer necessary~~ procedure for the attachment of land paying revenue to govt are no longer necessary as they have been otherwise provided for ~~Order Thereon~~ No. and that Rule 3 of R.P. no 648 dt 14.12.1885 the refund of Sale proceeds of movable property are ultra vires and requesting sanction ~~for~~ to the accompanying amendments for the same

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

order P 6439 (2)

Sanctioned

19.5.

Cir 19.4.24 to the Regr Chief Court in

IN - THE CHIEF COURT OF MYSORE AT BANGALORE.

C i v i l S i d e.

Corrigendum, dated April 1924

to Rule of Practice No. 28, dated the 8th March 1880 as amended by Corrigenda, dated 19th March 1909, 26th March 1910, 11th February 1910, and 29th July 1912.

The Chief Court directs that Rules 1 and 7, printed at pages 37 & 38 Civil Digest of 1919, be cancelled.

REGISTRAR.

N.G.

8

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Civil Side

Corrigendum dated April 1924 to Rule of Practice No. 64 dated 14th December 1885.

The Chief Court directs that for the semi-colon after the word "judgment-debtor" in the 5th line of rule 3 at page 44 of the Civil Digest, 1919, a full stop be substituted and all the rest of the said rule be omitted.

Registrar.

8/2